

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Civil No. 09-285 (JRT/JJK)

Plaintiff,

v.

ORDER

NUARL STEPHON EARL,

Defendant.

Kevin Ueland, Assistant United States Attorney, **OFFICE OF THE UNITED STATES ATTORNEY**, 300 South Fourth Street, Suite 600, Minneapolis, MN 55415, for plaintiff.

Richard Swanson, **ATTORNEY AT LAW AND COUNSELOR**, Post Office Box 117, Chaska, MN 55318, for defendant.

This matter is before the Court on Defendant's Motion for Competency Examination, filed August 31, 2010 [Docket No. 73]. The Court finds there is reasonable cause to order that a psychiatric or psychological examination of the defendant be conducted, and the government does not oppose this examination.

Pursuant to 18 U.S.C. § 4241, **IT IS HEREBY ORDERED** that:

1. The motion for psychiatric exam [Docket No. 73] is **GRANTED**. A psychiatric or psychological examination of the defendant shall be conducted and a psychiatric or psychological report shall be filed with the court, pursuant to the provisions of 18 U.S.C. §4247 (b) and (c).

2. The inquiry conducted by the psychiatrist / psychologist to perform this evaluation shall include whether Defendant is *presently* suffering from a mental illness which renders him unable to comprehend the nature and consequences of the proceedings against him, or to reasonably assist in his defense.
3. The psychiatrist / psychologist conducting the evaluation ordered herein is specifically prohibited from questioning Defendant about the offense, Defendant's activities before and after the offense, Defendant's criminal history, Defendant's prior bad acts, and any other area which does not directly concern Defendant's competency to stand trial.
4. The psychiatrist / psychologist is hereby ordered to specifically describe in his/her report the observations made of Defendant, the type of examination made of Defendant, and his/her opinion on the ultimate issue of competency.
5. Pursuant to 18 U.S.C. § 4247(c), a copy of the evaluation shall be provided to counsel.
6. Counsel may be present at the evaluation if counsel should choose to attend after providing notice to opposing counsel of his/her intent to so attend.
7. Pursuant to 18 U.S.C. §3161 (h) (7) (A), the Court finds that the ends of justice will be served by the granting of this motion for mental competency hearing, which will result in a continuance of the trial previously scheduled for May 26, 2010, outweigh the best interest of the public and the defendant

in a speedy trial. This finding is based on the facts set forth in the defendant's motion for a psychiatric exam.

8. Accordingly, it is ordered that the period of time from the date of the motion to the date a new trial is set shall be excluded from the speedy trial computations in this case.

DATED: September 13, 2010
at Minneapolis, Minnesota.

s/ John R. Tunheim
JOHN R. TUNHEIM
United States District Judge